REMARKS

Response to the Imposed Restriction Requirement

In the Office Action dated March 18, 2009, Examiner Carter imposed a restriction requirement under 35 U.S.C. §121 against claims 1-54 and required that an election be made between one of the following groups:

Group I includes claim 1-10, drawn to a pharmaceutical composition for increasing concentrations of chemokines comprising at least one G1 phase arresting agent;

Group II, claims 11-17, drawn to a method for inducing increased levels of anti-HIV beta-chemokines in activated lymphocytes comprising administering a composition comprising at least one G1 phase arresting agent;

Group III, claims 18-26, drawn to a method for modifying synthesis of receptor-ligand to alter extracellular recognition of a receptor by an infection agent comprising administering to a cell at least one G1 phase arresting agent;

Group IV, claims 27-36, drawn to a method of combating a virus infection comprising administering a G1 phase arresting compound;

Group V, claims 37-42, drawn to a method of maintaining viral control of an HIV infection comprising administering at least one antiviral agent in combination with at least one G1 phase arresting compound;

Group VI, claims 43-47, drawn to a method to inhibit replication of HIV in a HIV infected subject comprising, a) administering at least one G1 phase arresting agent for a first predetermined time period, and b) administering the G1 phase agent with at least on antiviral agent for a second predetermined time period, wherein the first and second time periods are sequential in a cyclic schedule;

Group VII, claims 48-50, drawn to a method of preventing HIV infection in a subject potentially exposed to HIV comprising administering at least one G1 phase arresting compound; and

Group VIII, claims 51-54, drawn to a method to reduce an effective dosage of an HIV antiviral agent comprising substituting the antiviral agent with a G1 phase arresting compound, augmenting the antiviral

agent with a G1 phase arresting compound; or substituting a portion of the antiviral agent with a G1 phase arresting compound.

Applicants believe there would be a great economy of cost and effort on the part of the Office, and certainly to the applicants, if the closely related subject matter of Groups I - VIII claims were examined together in this one application. Applicants maintain the subject matter of Groups I - VIII define, but one invention, and do not possess sufficient differences to warrant issuance of separate patents. Notably, it is vital to all applicants that restriction requirements issue only with the proper statutory authorization, because the cost to applicants of filing additional applications to recapture withdrawn subject matter can become cost prohibitive. Further, during prosecution, if the Office decides that a terminal disclaimer is necessary, the Office is allowed to withdraw the restriction requirement, after applicants has filed all the additional divisional applications, and thus indicating that the restriction requirement was unnecessary but only after applicants have incurred all the additional costs involved in filing the extra divisional applications. Applicants contend that Groups I to VIII define subject matter so related and so dependent, that good judgment dictates their inclusion in one application. *Ex parte Sajatovich*, 100 USPQ 281, 284 (Bd. of Appeals 1952).

In the event the restriction requirement is adhered to, applicants provisionally elect with traverse, the invention of Group I, for further examination on the merits.

The Office has further requested an election of species as follows:

1. A G1 phase arresting agent and applicants select rapamycin RAPA;
2. An antiviral agent and applicants select TAK 779
3. A receptor-ligand and applicants select CCR5 and RANTES
4. A chemokine and applicants select MIP-1ß

Applicants acknowledge the withdrawal of non-elected method claims from consideration, with the intent to rejoin these claims at a later time, or alternatively, with reservation of the right to file divisional application(s) directed to the subject matter of those claims if rejoinder is not affected. Specifically, applicants intend to rejoin the withdrawn method claims when the elected product claims (as herein amended, and as may subsequently be further amended) are determined to be allowable. Such rejoinder would be fully proper under these circumstances, for the following reasons. When an application as

originally filed discloses a product and the process for making and/or using such product, and only the claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product for examination through rejoinder procedure in accordance with MPEP §821.04, provided that the process claims depend from or include all the limitations of the allowed product claims. Consistent with such intent to rejoin, applicants have amended independent method claims notwithstanding the Office's withdrawal of such claims, to present them in form suitable for future examination upon their rejoinder with the allowed elected claims.

Fees Payable

No fee is due for entry of this response, however, if a fee is found due, the Commissioner is authorized to charge such fee to Deposit Account No. 13-4365 of Moore & Van Allen.

Conclusion

If any issues remain outstanding incident to the allowance of the application, Examiner Carter is requested to contact the undersigned attorney at (919) 286-8089.

Respectfully submitted,

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